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34533 7590 12/16/2009 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469				
EXAMINER SHAN, APRIL YING				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JANICE MARIE GIROUARD, DUSTIN KIRKLAND,  
EMILY JANE RATLIFF, and KENT EDWARD YODER

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Appeal 2009-002728  
Application 10/671,058<sup>1</sup>  
Technology Center 2100

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Decided: December 14, 2009

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Before JAY P. LUCAS, THU A. DANG, and CAROLYN D. THOMAS,  
*Administrative Patent Judges.*

THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL

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<sup>1</sup> Application filed September 25, 2003. The real party in interest is International Business Machines Corporation (“IBM”).

## I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-20, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## A. INVENTION

Appellants invented a system, method, and computer recording medium for providing a password to an application. (Spec. 29, Abstract.)

## B. ILLUSTRATIVE CLAIM

The appeal contains claims 1-20. Claims 1, 8, and 15 are independent claims. Claim 1 is illustrative:

1. A method for providing a password to an application, the method comprising:

receiving, from a user, a passkey event uniquely associated with one of a plurality of application requiring a password;

receiving, from a user, a same master password for access to each of the plurality of applications;

applying a hashing algorithm associated with the passkey event to the master password to generate an application specific password; and

submitting the application specific password to the application for access by the user.

### C. REFERENCES

The references relied upon by the Examiner as evidence in rejecting the claims on appeal are as follows:

D'Souza	US 6,625,649 B1	Sep. 23, 2003
Henry	US 6,996,718 B1	Feb. 7, 2006
Challener	US 7,085,933 B2	Aug. 1, 2006

### D. REJECTIONS

The Examiner entered the following rejections which are before us for review:

- (1) Claims 1-3, 5, 6, 8-10, 12, 13, 15-17, 19, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Henry;
- (2) Claims 4, 11, and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Henry in view of Challener; and
- (3) Claims 7 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Henry in view of D'Souza.

## II. FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence.

### *Henry*

1. Henry discloses that “[a] designated password for each account is generated by a hash function of the common password and some account-dependent information.” (Abstract.)

2. In Henry, “[t]he account-dependent information includes a user ID, a server name that indicates the account location, and a random number that is associated with the account and stored at the server.” (Col. 4, ll. 14-17.)

3. Henry discloses that “[t]he user id and the server name cooperate to uniquely define a unique account belonging to the user.” (Col. 4, ll. 18-20.)

4. Henry discloses that “[i]f an account allows Roman letters [to] appear in the password, the BASE64 [BASE64] algorithm is used.” (Col. 4, ll. 23-25.)

### III. PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992).

Anticipation of a patent claim requires a finding that the claim at issue ‘reads on’ a prior art reference. In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.

*Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999)  
(internal citations omitted).

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007). To be nonobvious, an improvement must be “more than the predictable use of prior art elements according to their established functions.” *Id.* at 417.

#### IV. ANALYSIS

##### *Grouping of Claims*

In the Brief:

Appellants argue claims 1-4 and 6-20 as a group (App. Br. 5-11). For claims 2-4 and 6-20, Appellants repeat the same argument made for claim 1. We will, therefore, treat claims 2-4 and 6-20 as standing or falling with claim 1.

Appellants separately argue claim 5. *See* 37 C.F.R. § 41.37(c)(1)(vii). *See also In re Young*, 927 F.2d 588, 590 (Fed. Cir. 1991).

##### *The Anticipation Rejection*

We first consider the Examiner’s rejection of the claims under 35 U.S.C. § 102(e) as being anticipated by Henry.

##### *Claims 1-4 and 6-20*

Appellants contend that “Henry does not disclose a passkey event as claimed here.” (App. Br. 6.)

The Examiner found that “because a passkey can be more keys of a keyboard as disclosed in the specification, Henry et al. met the limitation of passkey event by disclosing in fig. 7 ‘1. input account username – luo and 2. Input account location – research.att.com’” (Ans. 12).

Issue: Have Appellants shown that the Examiner erred in finding that Henry discloses a passkey event uniquely associated with one of a plurality of applications requiring a password?

Here, the Examiner has identified in Appellants’ Specification that a passkey can be represented by one or more keys on a keyboard (Ans. 12; *see* also Spec. 11:1-2). As such, a “passkey event” includes any combination of keys on keyboard being depressed so that the keys are uniquely associated with an application, not merely a single designated key.

Similarly, Henry discloses that a designated password is generated using a common password and some account-dependent information (FF 1). The Examiner finds that the claimed “passkey event” reads on Henry’s account-dependent information. We agree.

For example, Henry’s account-dependent information includes a user ID and a server name that is uniquely tied to an account of the user (FF 2-3). One skilled in the art would have easily recognized that keying in the user ID and the server name includes depressing a combination of keys on a

keyboard, i.e., a passkey event. As such, we find unpersuasive Appellants' arguments that Henry does not disclose a passkey event as claimed.

Appellants further contend that "Henry does not disclose applications requiring a password but instead only discloses Web-based accounts requiring a password." (App. Br. 7.)

The Examiner found that "[t]he Appellants do not expressly define the term 'application' in the specification, instead, the Appellants broadly disclose on page 7 of the specification 'The present invention is described to a large extent . . . for providing a password to an application.'" (Ans. 13.)

Issue: Have Appellants shown that the Examiner erred in finding that Henry discloses applications requiring a password?

Here, the issue turns on whether the claimed "application" is distinguishable from Henry's "account." In essence, Appellants contend that Henry's "Web-based accounts" requiring passwords are not the same as the claimed "applications" requiring passwords. We disagree.

Although Appellants argue that Henry's Web-based accounts are not applications, such arguments have been directly rebutted by the Examiner in the Examiner's responsive arguments at pages 13 through 15 of the Answer. Furthermore, no Reply Brief has been filed to contest before us these



responsive arguments of the Examiner. As such, we endorse and adopt the Examiner's finding.

We further stress that Appellants have not clearly defined "applications" in the claims nor in the Specification, and thus we adopt the ordinary and usual meaning of the term "applications" which includes any "program . . . that performs one of the important tasks for which a computer is used." *Merriam-Webster's Collegiate Dictionary*, p. 57 (10<sup>th</sup> Edition 1997). Here, the Examiner has shown that Henry's account is capable of performing such tasks. Thus, we find Appellants' arguments that Henry does not disclose applications requiring a password unpersuasive.

Thus, Appellants have *not* persuaded us of error in the Examiner's conclusion of anticipation for representative claim 1. Therefore, we affirm the Examiner's § 102 rejection of independent claim 1 and of claims 2, 3, 6, 8-10, 12, 13, 15-17, 19, and 20, which fall therewith.

#### *Claim 5*

Appellants contend that "Henry's password transform algorithm does not disclose the second element of claim 5 of the present application because Henry's password transform algorithm is not a character rule algorithm used to generate a character rule compliant hashed character." (App. Br. 9-10.)

The Examiner found that "the BASE64[BASE64] algorithm and every 3 bits is converted into a digit [rule] of Henry's clearly anticipates Appellant[s]' character rule algorithm." (Ans. 19.)

Issue: Have Appellants shown that the Examiner erred in finding that Henry discloses applying the character rule algorithm to the hashed character to generate a character rule compliant hashed character?

Here, the Examiner has shown in the responsive arguments at pages 18 through 19 of the Answer that Henry discloses a BASE64 algorithm to convert from binary form into text form (FF 4). Appellants have not shown and we do not readily find how Henry's Base64 algorithm is distinguishable from the claimed character rule algorithm. Appellants' Specification merely discloses that "[a] character rule algorithm therefore, is an algorithm designed to convert the value of the hashed character to a value that is compliant with the password protected application's character rules" (Spec., 16:12-14). The Examiner reasons that Henry's BASE64 algorithm is consistent with the defined character rule algorithm. We agree. Furthermore, no Reply Brief has been filed to contest before us these responsive arguments of the Examiner. As such, we endorse and adopt the Examiner's finding.

Thus, Appellants have *not* persuaded us of error in the Examiner's conclusion of anticipation for claim 5. Therefore, we affirm the Examiner's § 102 rejection of claim 5.

*The Obviousness Rejection*

We now consider the Examiner's rejection of the claims under 35 U.S.C. § 103(a).

Here, for all of the claims rejected under 35 U.S.C. § 103(a) Appellants merely adopt the arguments that were used to dispute claim 1, which we have already found unpersuasive.

Thus, Appellants have not persuaded us of error in the Examiner's conclusion of obviousness for claims 4, 7, 11, 14, and 18. Therefore, we affirm the Examiner's § 103 rejection of claims 4, 7, 11, 14, and 18.

**V. CONCLUSIONS**

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-20.

Thus, claims 1-20 are not patentable.

**VI. DECISION**

In view of the foregoing discussion, we affirm the Examiner's rejections of claims 1-20.

Appeal 2009-002728  
Application 10/671,058

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

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